IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.359 OF 2005

Lexicon Securities Ltd. ... Petitioner.

vs.

Mr.Shilan Thaker and another. .... Respondents.

Mr.H.N.Thakore i/b. M/s.Thakore Jariwala & Associates, for Petitioner.

Mr.Ajay Khandhar i/b. Ajay Khandhar & Co. for Respondent no.1.

CORAM: D.K.DESHMUKH,J.

DATED: 17th January, 2006

P.C.:-

1. Heard the learned Counsel appearing for the petitioner. The learned Arbitrator has correctly held that the claim was barred by the Law of Limitation. The cause of action accrued to the petitioner against the respondent no.1 on the date on which, according to the petitioner, the amount of purchase price of the shares was to be paid. That was to be paid admittedly in the year 2000 and the reference to the arbitration was made admittedly beyond the period of limitation

from the date of accrual of the cause of action. According to the petitioner Mr.Sethana was placing the order on behalf of respondent no.1. therefore, on non payment of price of the shares the cause of action would accrue against Mr.Sethana and therefore, the petitioner's case is that the cause of action against Mr.Sethana accrued in the year 2000 and it is only after Mr.Sethana did not make payment the cause of action accrues against the respondent no.1. The petitioner's case cannot be accepted because the capacity of Mr.Sethan even according to the petitioner was as an authorised representative of respondent no.1. Therefore, there is no cause of action against him. The petition is therefore, rejected.